

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF OKLAHOMA

DARRYL E. FIELDS, )  
                        )  
                        )  
Plaintiff,         )  
                        )  
                        )  
v.                     )              Case No. CIV-16-213-KEW  
                        )  
                        )  
BNSF RAILWAY COMPANY, )  
a corporation,         )  
                        )  
                        )  
Defendant.         )

O R D E R

This matter comes before the Court on Plaintiff's Motion in Limine Regarding Testimony of Witness Not Disclosed Prior to the Deadline for Witnesses (Docket Entry #153). Plaintiff seeks to preclude Defendant BNSF Railway Company ("BNSF") from calling any witnesses not listed on its witness list. BNSF challenges the lack of specificity in the Motion and states that the parties agreed to add Lai Ann Simmons, a physical therapist who performed a Functional Capacity Evaluation on Plaintiff, as a witness at trial after the witness lists were filed in the case.

"The pre-trial order supersedes the pleadings and becomes the governing pattern of the lawsuit." Washington v. Unified Gov't of Wyandotte Co., Kans., 847 F.3d 1192, 1202 (10th Cir. 2017) quoting Case v. Abrams, 352 F.2d 193, 195 (10th Cir. 1965). As a result, the witnesses to be called at trial are governed by the Third Amended Agreed Pretrial Order submitted by the parties. Absent a

showing of the appropriate exigent circumstances, the parties will be bound by their respective witness lists in the Pretrial Order. Ms. Simmons is listed by both parties.

IT IS THEREFORE ORDERED that Plaintiff's Motion in Limine Regarding Testimony of Witness Not Disclosed Prior to the Deadline for Witnesses (Docket Entry #153) is hereby **GRANTED**.

IT IS SO ORDERED this 28<sup>th</sup> day of September, 2021.



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KIMBERLY E. WEST  
UNITED STATES MAGISTRATE JUDGE